

Message Text

CONFIDENTIAL

PAGE 01 MEXICO 06127 01 OF 02 210042Z

70

ACTION ARA-20

INFO OCT-01 ADP-00 AGR-20 SCI-06 L-03 CEQ-02 EPA-04 INT-08

CIAE-00 DODE-00 INR-10 NSAE-00 PA-03 RSC-01 USIA-15

PRS-01 SS-15 NSC-10 H-03 AID-20 NSF-04 AEC-11 EB-11

RSR-01 /169 W

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R 202215Z AUG 73

FM AMEMBASSY MEXICO

TO SECSTATE WASHDC 7521

CONFIDENTIAL SECTION 1 OF 2 MEXICO 6127

E.O. 11652: GDS

TAGS: PBOR, MX

SUBJECT: SALINITY: BROWNELL VISIT)

FOLLOWING IS TEXT OF THE DRAFT PRESENTED TO THE MEXICANS THIS MORNING:

STATEMENT OF POINTS OF AGREEMENT FOR A PERMANENT, DEFINITIVE AND JUST SOLUTION TO THE COLORADO RIVER SALINITY PROBLEM.

AMBASSADOR HERBERT BROWNELL, THE SPECIAL REPRESENTATIVE OF PRESIDENT NIXON, AND SECRETARY OF FOREIGN RELATIONS EMILIO O. RABASA OF MEXICO, AGREE ON THE FOLLOWING RECOMMENDATION TO THEIR RESPECTIVE PRESIDENTS FOR A PERMANENT, DEFINITIVE AND JUST SOLUTION TO THE COLORADO RIVER SALINITY PROBLEM:

1. THE UNITED STATES SHALL ADOPT MEASURES TO ASSURE THAT AS SOON AS PRACTICAL AND NO LATER THAN JULY 1, 1974, SUBJECT TO THE AUTHORIZATION REFERRED TO IN PARAGRAPH 12, THE COLORADO RIVER WATERS DELIVERED TO MEXICO IN THE COLORADO RIVER ABOVE MORELOS DAM AS A PART OF THE 1.5 MILLION ACRE-FEET GUARANTEED TO MEXICO UNDER THE 1944 TREATY, HAVE AN AVERAGE SALINITY OF NO MORE THAN 115 PPM (U.S. COUNT) OVER THE SALINITY OF COLORADO RIVER WATERS WHICH ARRIVE AT IMPERIAL DAM, FOR PROGRESSIVE PERIODS OF TEN CONSECUTIVE

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 MEXICO 06127 01 OF 02 210042Z

YEARS, BEGINNING ON THE DATE THIS PROVISION ENTERS INTO FORCE

(THE AVERAGE FOR THE PROGRESSIVE TEN YEAR PERIODS TO BE COMPUTED FROM THE AVERAGE ANNUAL SALINITIES).

2. MINUTE 241 SHALL BE TERMINATED HEREWITH. FROM (BLANK), 1973, UNTIL THE PROVISIONS OF PARAGRAPH 1 BECOME EFFECTIVE, THE UNITED STATES SHALL DISCHARGE TO THE COLORADO RIVER DOWNSTREAM FROM MORELOS DAM VOLUMES OF WATER FROM THE WELLTON-MOHAWK DISTRICT AT THE ANNUAL RATE OF 118, 000 ACRE-FEET (145,551,000 CUBIC METERS) AND SUBSTITUTE THEREFOR AN EQUAL VOLUME OF OTHER WATERS TO BE DISCHARGED TO THE COLORADO RIVER ABOVE MORELOS DAM; AND, PURSUANT TO THE DECISION OF PRESIDENT ECHEVERRIA EXPRESSED IN THE JOINT COMMUNIQUE OF JUNE 17, 1972, THE UNITED STATES SHALL DISCHARGE TO THE COLORADO RIVER DOWNSTREAM FROM MORELOS DAM THE DRAINAGE WATERS OF THE WELLTON-MOHAWK DISTRICT, THAT DO NOT FORM A PART OF THE VOLUMES OF DRAINAGE WATERS REFERRED TO ABOVE, WITH THE UNDERSTANDING THAT THIS REMAINING VOLUME WILL NOT BE REPLACED BY SUBSTITUTION WATERS.

THE COMMISSION SHALL CONTINUE TO ACCOUNT FOR THE DRAINAGE WATERS DISCHARGED BELOW MOELOS DAM AS PART OF THOSE DESCRIBED IN THE PROVISIONS OF ARTICLE 1H7 OF THE WATER TREATY OF FEBRUARY 4, 1944.

3. THE UNITED STATES SHALL (A) EXTEND IN ITS TERRITORY THE CONCRETE-LINED WELLTON-MOHAWK BYPASS DRAIN FROM MORELOS DAM TO THE SOUTHERN INTERNATIONAL BOUNDARY; AND (B) OPERATE AND MAINTAIN THE PORTIONS OF THE WELLTON-MOHWK BYPASS DRAIN LOCATED IN THE UNITED STATES.

4. MEXICO, THROUGH THE COMMISSION AND AT THE EXPENSE OF THE UNITED STATES, SHALL CONSTRUCT, OPERATE AND MAINTAIN AN EXTENSION OF THE CONCRETE-LINED BYPASS DRAIN WITHIN MEXICO FROM THE SOUTHERN INTERNATIONAL BOUNDARY TO THE SANTA CLARA SLOUGH OF A CAPACITY OF 353 CFS, AND SHALL PETIT THE UNITED STATES TO DISCHARGE TO THE GULF OF CALIFORNIA IN THIS DRAIN ALL OR A PORTION OF THE WELLTON-MOHAWK DRAINAGE WATERS, THE BRINE FROM SUCH DESALTING OPERATIONS IN THE UNITED STATES AS ARE CARRIED OUT TO IMPLEMENT THIS AGREEMENT,

AND ANY OTHER QUANTITIES OF BRINE WHICH MEXICO MAY AGREE TO
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 MEXICO 06127 01 OF 02 210042Z

ACCEPT (BUT NO RADIOACTIVE MATERIAL OR NUCLEAR WASTES), WITH THE UNDERSTANDING THAT THE UNITED STATES SHALL ACQUIRE NO RIGHT TO NAVIGATION, SERVITUDE OR EASEMENT BY REASON OF THE EXISTENCE OF THE DRAIN, NOR OTHER LEGAL RIGHTS, EXCEPT AS EXPRESSLY PROVIDED IN THIS PARAGRAPH.

5. THE UNITED STATES MAY CONTINUE TO DELIVER TO MEXICO ON THE LAND BOUNDARY AT SAN LUIS AS A PART OF MEXICO'S GUARANTEED TREATY

ALLOTMENT OF COLORADO RIVER WATERS, SUBSTANTIALLY THE SAME VOLUMES OF WATERS AS HAVE BEEN CUSTOMARILY DELIVERED TO MEXICO AT THAT LOCATION, AMOUNTING TO APPROXIMATELY 140,000 ACRE-FEET PER YEAR, OF A SALINITY SUBSTANTIALLY THE SAME AS THAT OF THE WATERS CUSTOMARILY DELIVERED THERE, SUBJECT TO THE UNDERSTANDINGS CONTAINED IN PARAGRAPH 6.

6. THE UNITED STATES HAS THE OBJECTIVE OF CONTROLLING THE SALINITY OF THE COLORADO RIVER ABOVE IMPERIAL DAM, FOR THE BENEFIT OF ALL USERS DIVERTING WATERS AT OR BELOW IMPERIAL DAM. IT IS RECOGNIZED THAT SUCH INCREASES AS MAY NEVERTHELESS OCCUR IN THE SALINITY OF THE COLORADO RIVER AT IMPERIAL DAM, TAKING INTO ACCOUNT THE ABOVESTATED OBJECTIVE, WILL AFFECT UNITED STATES AND MEXICAN WATER USERS AT OR BELOW IMPERIAL DAM.

7. THE UNITED STATES AND MEXICO SHALL CONSULT WITH EACH OTHER PRIOR TO UNDERTAKING ANY NEW DEVELOPMENT OF EITHER THE SURFACE OR THE GROUNDWATER RESOURCES IN ITS OWN TERRITORY IN THE BORDER AREA THAT MIGHT ADVERSELY AFFECT THE OTHER COUNTRY.

8. THE UNITED STATES WILL SUPPORT EFFORTS BY MEXICO TO OBTAIN APPROPRIATE FINANCING FOR THE IMPROVEMENT AND REHABILITATION OF IRRIGATION FACILITIES IN THE MEXICALI VALLEY.

CONFIDENTIAL

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CONFIDENTIAL

PAGE 01 MEXICO 06127 02 OF 02 210030Z

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R 202215Z AUG 73

FM AMEMBASSY MEXICO

TO SECSTATE WASHDC 7522

CONFIDENTIAL SECTION 2 OF 2 MEXICO 6127

9. THE UNITED STATES AND MEXICO SHALL RECOGNIZE THE FOREGOING

UNDERTAKINGS AND UNDERSTANDINGS AS CONSTITUTING THE PERMANENT, DEFINITIVE AND JUST RESOLUTION OF THE SALINITY PROBLEM WHICH WAS THE SUBJECT OF THE JOINT COMMUNIQUE OF PRESIDENT RICHARD NIXON AND PRESIDENT LUIS ECHEVERRIA ON JUNE 17, 1972; AND SHALL RECOGNIZE THAT THE OBLIGATIONS ENTERED INTO HEREIN IN THE UNITED STATES, AND EXPENDITURES RELATING THERETO, CONSTITUTE A FULL AND FINAL SETTLEMENT OF ALL CLAIMS BY THE GOVERNMENT OF MEXICO, ITS CITIZENS, STATE OR LOCAL GOVERNMENTAL ENTITIES AGAINST THE UNITED STATES, ITS CITIZENS, STATE OR LOCAL GOVERNMENTAL ENTITIES RELATING TO THE WATERS OF THE COLORADO RIVER DELIVERED TO MEXICO PURSUANT TO THE 1944 WATER TREATY PRIOR TO THE DATE OF THIS AGREEMENT.

10. THE MEASURES REQUIRED TO IMPLEMENT THIS AGREEMENT SHALL BE UNDERTAKEN AND COMPLETED AT THE EARLIEST PRACTICAL DATE.

11. PENDING THE CONCLUSION BY THE GOVERNMENTS OF THE UNITED STATES AND MEXICO, A COMPREHENSIVE AGREEMENT ON GROUNDWATER IN THE BORDER AREAS, EACH COUNTRY SHALL LIMIT PUMPING OF GROUND-WATERS IN ITS TERRITORY WITHIN FIVE MILES OF THE ARIZONA-SONORA BOUNDARY NEAR SAN LUIS TO 160-000 ACRE-FEET PER YEAR.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 MEXICO 06127 02 OF 02 210030Z

12. THESE POINTS SHALL BE INCORPORATED IN A MINUTE OR MINUTES OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION AND EXPRESSLY APPROVED BY BOTH GOVERNMENTS BY EXCHANGE OF NOTES, AND SHALL ENTER INTO FORCE UPON SUCH APPROVAL, EXCEPT FOR PARAGRAPHS ONE, THREE, FOUR AND NINE, WHICH SHALL ENTER INTO FORCE UPON THE AUTHORIZATION BY THE UNITED STATES CONGRESS OF THE FUNDS FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF THE WORKS DETERMINED BY THE UNITED STATES TO BE NECESSARY TO CARRY OUT THEIR TERMS.

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